IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

TUESDAY, THE 21ST AUGUST 2007 / 30TH SRAVANA 1929

OP.No. 22934 of 1999(E)

PETITIONER:

K. NARAYANA KAIMAL,
FLAT NO. 134,
AISWARYA NAGAR,
THAIKKATTUKARA.P.O,
ALWAYE - 683 106.

BY ADV. SRI.K.JAJU BABU.

RESPONDENTS:
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1. **THE UNION OF INDIA, REPRESENTED BY THE SECRETARY, FINANCE, NEW DELHI.**

2. **THE INCOME TAX OFFICER (T.D.S.), DIVISION III, CENTRAL REVENUE BUILDING, L.S. PRESS ROAD, KOCHI - 18.**

3. **THE SPECIAL TAHSILDAR (L.A) GENERAL, ERNAKULAM.**

BY ADV. SRI.P.K.R.MENON(SR.),SC FOR IT,

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 21/08/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON C.M.P. NO. 3804/1999 IN O.P. NO. 22934/1999

DISMISSED

21/08/2007. **SD/- T.R.RAMACHANDRAN NAIR, JUDGE.**

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE AWARD NO. 209/99, DT. 23/08/99.

EXT.P.2: COPY OF THE COMMUNICATION ISSUED BY THE R.2. TO THE R.3. DT. 09/06/1999.

RESPONDENT'S EXHIBITS: NIL.

//TRUE COPY//

prv.

T.R. Ramachandran Nair, J.

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O.P.NO.22934 OF 1999-E

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Dated this the 21st day of August, 2007

JUDGMENT

The original petition is filed challenging the vires of Section 194-L of the Income-tax Act and Ext.P2 communication. The short facts are:

2. Pursuant to the land acquisition proceedings, Ext.P1 notice of award was issued on 23.8.1999. The total compensation is Rs.2,14,311/-, out of which an amount of Rs.1,41,000/- has been paid on 14.1.1999 and the balance due is Rs.73,311/-. After coming into force of Section 194-L with effect from 1.6.1999, Ext.P2 notice was issued by the Income Tax Officer (TDS) Division III, Kochi to the Special Tahsildar (LA), Kakkanadu.

2. Learned Standing Counsel appearing for the Revenue points out that as far as the applicability of the particular provision is concerned, if the compensation payable is below Rupees One Lakh, there is no tax liability and therefore tax could not be deducted. Further, the said provision is having effect from 1.6.1999 and therefore the balance as per Ext.P1 is only Rs.73,311/-. Therefore, going by the state of affairs as reflected above, there cannot be any application of Section 194-L in this case. It is also

submitted that the validity of the provision has been upheld by this court in O.P. No.28719/1999 as per judgment dated 26.7.2005.

Therefore, the original petition is disposed of in the following terms:

The direction sought to the third respondent not to deduct any tax is granted. If the third respondent has already deducted and paid it to the Revenue, it will be open to the petitioner to file a return and claim refund of the same. The challenge against the vires of Section 194-L fails in the light of the judgment of this court in O.P.No.28719/1999.

(T.R. Ramachandran Nair, Judge.)

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T.R. Ramachandran Nair, J.

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O.P. No.22934 of 1999-E

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JUDGMENT

21th August, 2007.